

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

TERRY GARVIN

PLAINTIFF

V.

CIVIL ACTION NO. 3:18-CV-255-SA-RP

CITY OF CHARLESTON, MISSISSIPPI and
TALLAHATCHIE COUNTY, MISSISSIPPI

DEFENDANTS

ORDER OF DISMISSAL FOR FAILURE TO PROSECUTE

Plaintiff Terry Garvin filed this suit on November 14, 2018 in the Circuit Court of Tallahatchie County asserting claims under Mississippi law, 42 U.S.C. Section 1985, and 42 U.S.C. Section 1983. Defendant City of Charleston removed the case to this Court on November 29, 2018 premising federal jurisdiction on the basis of federal question. On January 28, 2019, counsel for Garvin was allowed to withdraw and the Plaintiff was ordered that he had “until February 28, 2019 to (1) retain other counsel or (2) notify the Court that he intends to proceed *pro se*.... Substitute counsel must make an entry of appearance on Mr. Garvin’s behalf no later than February 28, 2019.” *See* Order [17]. The Plaintiff did not respond.

Further, the Court entered a Show Cause Order [21] on April 24, 2019, directing the Plaintiff to show cause as to why his claims against Defendants Wendy Jones and Tim Cole should not be dismissed. The Plaintiff did not respond to the Order [21], and the Court entered an Order [27] dismissing the Plaintiff’s claims against Wendy Jones and Tim Cole without prejudice on June 5, 2019.

Defendant City of Charleston, Mississippi filed the present Motion to Dismiss [28] under Federal Rule of Civil Procedure 41 on July 22, 2019, and Defendant Tallahatchie County, Mississippi joined in the Motion on July 23, 2019. *See* Joinder [30]. Again, the Plaintiff did not respond.

Federal Rule of Civil Procedure 41(b) states, “If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it....” Here, the Plaintiff failed to prosecute his case and failed to comply with several Orders of this Court. It is apparent on the docket of this case that the Plaintiff has not participated in the prosecution of his case since January of 2019. As such, this case is hereby DISMISSED *with prejudice* under Federal Rule of Civil Procedure 41(b).

It is SO ORDERED on this, the 18th day of October, 2019.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE